

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TYRELL JAMES HENDERSON,

Defendant.

CR-11-56-GF-BMM

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
MAGISTRATE JUDGE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on March 12, 2015. (Doc. 86). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Henderson admitted to having violated the Special Condition 6 by failing to participate in and complete a program of substance abuse treatment. Henderson also admitted to violating Standard Condition 3, by failing to answer truthfully all inquiries by the probation officer and failing to follow the instructions of the

probation officer. Henderson admitted to violating Standard Condition 7 by failing to refrain from the use of a controlled substance.

Henderson's admissions constitute a Grade C violation. Henderson's criminal history category is II and Henderson's underlying offense is a Class C felony. The statutory range is a maximum of 24 months in custody followed by a term of supervised release up to 24 months, less any custody time imposed. The guideline range is 4 to 10 months in custody, followed by a term of supervised release up to 24 months, less any custody time imposed.

Judge Johnston found that Henderson violated Special Condition 6, Standard Condition 3, and Standard Condition 7. Judge Johnston recommends that Henderson be incarcerated for six months, with eighteen months of supervised release to follow.

This Court finds no clear error in Judge Johnston's Findings and Recommendations and adopts them in full. Incarceration for six months followed by eighteen months of supervised release is an appropriate disposition of this case in light of Henderson's violations. The original terms of Henderson's supervised release remain in effect.

IT IS HEREBY ORDERED:

1. Judge Johnston's Findings and Recommendations (Doc. 86) is
ADOPTED IN FULL and Judgment shall be entered accordingly.

DATED this 30th day of March, 2015.

A handwritten signature in blue ink that reads "Brian Morris". The signature is fluid and cursive, with "Brian" on the top line and "Morris" on the bottom line.

Brian Morris
United States District Court Judge